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CONFIRMATION NO. ATTORNEY DOCKET NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR 09/972,756 10/05/2001 Michael G. Katze A-70383-2/RMS/AXG 5359 **EXAMINER** 06/28/2005 20350 7590 TOWNSEND AND TOWNSEND AND CREW, LLP VOGEL, NANCY S TWO EMBARCADERO CENTER PAPER NUMBER **ART UNIT EIGHTH FLOOR** SAN FRANCISCO, CA 94111-3834 1636

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Carminer			Application No.	Applicant(s)	
Nancy T. Vogel   1636	Office Action Summary		09/972,756	KATZE ET AL.	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of the map by available under the provision of 3° CFR 1.15(g), in no event, however, may a reply be timely filled at the state of the map of the provision of the map of the provision of th			Examiner	Art Unit	
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.35(b). In no event, however, may a reply be limitely filed  If the partied for reply specified above, the maintain statisticity parties with a specified above, the maintain statisticity parties with a specified above, the maintain statisticity parties with a spire 30% (5) MONTH's from the mailing date of this corrumatication. Fallicity is use years the specified above, the maintain statisticity parties with a spire 30% (5) MONTH's from the mailing date of this corrumatication. Fallicity is used to the specified above, the maintain statisticity parties with a spire 30% (6) MONTH's from the mailing date of this corrumatication. Fallicity is used to specified above, the maintain statisticity parties with a spire 30% (6) MONTH's from the mailing date of this corrumatication. Fallicity is used to specified above, the maintain statisticity parties with the corrumatication. Fallicity is used to spire 30% (7) MONTH's from the mailing date of this corrumatication. Fallicity is used to spire 30% (6) MONTH's from the mailing date of this corrumatication. Fallicity is used to spire 30% (6) MONTH's from the mailing date of this corrumatication.  Status  1) Responsive to communication(s) filed on Q4 May 2005.  2a) This action is FINAL.  2b) This action is non-final.  3) Is not this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-11, 13-20 and 22-29 is/are pending in the application.  4) Claim(s) 1-11, 13-20 and 22-29 is/are pending in the application.  4) Claim(s) 1-11, 13-20 and 22-29 is/are pending in the application.  5) Claim(s) 1-11, 13-20 and 22-29 is/are pending in the application requirement.  Application Papers  9) The specification is object			Nancy T. Vogel	1636	
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of the may be sainble under the provision of 3 CPR 1.13(6). In no event, however, may a reply be limely filed offer SX (6) MONTIST from the mailing date of this communication.  If the prenot or engly septimal for mely service of the communication of t	··				
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#### **DETAILED ACTION**

Claims 1-11, 13-20, and 22-29 are pending in the case.

The finality of the previous Office action is withdrawn.

## Response to Arguments

Applicant's arguments, see pages 8-9, filed 5/4/05, with respect to the rejection(s)of claim(s) 1-11, 13-20, 22-29 under 35 USC 112 2<sup>nd</sup> paragraph, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

A new ground(s) of rejection is made in view of a newly found prior art reference, i.e. Houghton et al. (US Patent 5,679,342).

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13, 14, 18-20, 22-24, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Houghton et al.

Houghton et al. disclose a method comprising incubating a reaction mixture (a cell) that comprises the hepatitis C virus, and a candidate agent, and assaying for a difference in the property of viral replication as compared to said property in said reaction mixture incubated in the absence of said candidate agent, wherein said

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difference in property is indicative of the ability of said candidate agent to modulate viral replication (see column 3, line 12-49 and column 20, lines 17-54). Since infection of the cell by hepatitis C virus induces interferon synthesis which then induces PKR, the cell disclosed by the reference is considered to comprise PKR. Since the hepatitis C virus contains the polynucleotides encoding the NS5A polypeptide, and it is produced upon infection, the NS5A polypeptide is present in the cell disclosed by the reference. Viral replication is considered to be a property indicative of the modulation of the interaction of NS5A polypeptide with PKR, since without said modulation, replication is not possible.

### Conclusion

Claims 1-11 are allowed.

Claims 15-17 and 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy T. Vogel whose telephone number is (571) 272-0780. The examiner can normally be reached on 7:00 - 3:30, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel, Ph.D. can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NANCY VOGEL, PH.D.
PATENT EXAMINER